



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated September 3, 2020 which reads as follows:

“G.R. No. 233643 - Angustia Lizardo-Taleon, Claro Lizardo, Jr., Fe Lizardo Purruganan v. David T. Gadit, Onofre T. Nava, Celso Concepcion, Francisco Tul-u, et al. and G.R. No. 238130 - Angustia Lizardo Taleon, et al. vs. Lizardo Neighborhood Association-Barangay Dioquino Zobel, Inc., et al.

In this Petition for *Certiorari*, Angustia Lizardo-Taleo,¹ *et al.* (petitioners) assailed the following: (1) Order² dated March 6, 2017; (2) Order³ dated April 27, 2017; and (3) Order⁴ dated June 22, 2017 of the Regional Trial Court of Quezon City, Branch 216 (RTC) relative to its issuance of a Writ of Demolition filed by them.

This case is an offshoot of civil case for recovery of possession filed by petitioners against David Gadit, *et al.* (respondents).

In said civil case, it was alleged that large parcel of land, under the name of Claro Lizardo married to Angustia Lizardo was covered by Transfer Certificate of Title (TCT) No. RT-90176 (13001). Said TCT includes Lots 5-A, 5-B, 5-C, 5-D, 5-E, 5-K and 5-L.

Lots 5-A, 5-B, 5-C, and 5-E were subsequently conveyed to other individuals. Only Lots 5-D, 5-K, and 5-L remained embraced in TCT No. 13001.

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¹ The original plaintiffs are now represented by their heirs in view of their demise. Angustia Lizardo Taleon is represented by her son Omar Lizardo Taleon; Fe Lizardo Purruganan is represented by her son Misael Lizardo Purruganan; and Claro Lizardo, Jr. is represented by his wife through herein counsel Atty. Eduardo Bringas.

² Penned by Judge Alfonso Ruiz III; *rollo*, pp. 59-62.

³ *Id.* at 63-66.

⁴ *Id.* at 68.

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A complaint for recovery of possession docketed as Civil Case No. Q-98-35878 was filed by petitioners, who are the lawful heirs of Claro Lizardo and Angustia Lizardo, against the respondents, for being in possession of Lots 5-D, 5-K, and 5-L.

In a Decision⁵ dated October 20, 2003, the RTC found that respondents' possession of Lots 5-D, 5-K, and 5-L was by mere tolerance of petitioners, who are the registered owners thereof. Thus, respondents' refusal to vacate the premises upon petitioners' demand made their possession unlawful. The *fallo* thereof reads:

WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered in favor of plaintiffs and against defendants as follows:

1. Ordering the above defendants and all persons claiming rights under them, to vacate the premises as they are occupying at Lizardo, St., 20th Avenue, Barangay Dioquino Zobel, Cubao, Quezon City which properties are covered by TCT No. RTY-90166 (13001) of the Registry of Deeds of Quezon City and surrender peaceful possession thereof to plaintiffs;

2. Ordering the above defendants to pay plaintiffs the reasonable amount of Php 2,000.00 a month as reasonable compensation for the use and occupation of the property respectively from the filing of the complaint on October 21, 1998 until such time that they vacate the property.

3. Ordering defendants to pay plaintiffs severally the amount of One Hundred Thousand (Php 100,000.00) as and by way of attorney's fees, and.

4. Ordering defendants to pay the costs of suit.

SO ORDERED.

Aggrieved, respondents filed an appeal before the Court of Appeals (CA).

In a Decision⁶ dated November 9, 2006, the CA affirmed the trial court's decision and dismissed the appeal by the respondents. When said CA Decision attained finality, petitioners moved for its execution. A writ of execution was thus issued on February 15, 2010.

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⁵ Id. at 209.

⁶ Penned by Associate Justice Apolinario D. Bruselas, Jr. with Associate Justices Josefina Guevara Salonga and Vicente Q. Roxas, concurring; id. at 209-228.

Subsequently, a Writ of Demolition,⁷ commanding the sheriff to demolish the improvements erected by the respondents and all persons claiming rights under them on the portion of land belonging to petitioners, was issued.

In an Omnibus Motion, respondent contended that the Decision dated October 20, 2003 of the RTC should only include Lots 5-D, 5-K, and 5-L considering that these are the only properties stated in the complaint filed by the petitioners.

The RTC issued an Order⁸ dated March 6, 2017 granting the exclusion of Lot 5-E in the Writ of Demolition. A motion to set aside the March 6, 2017 Order⁹ of the RTC was filed by petitioners, which was denied in an Order dated April 27, 2017. A Motion for Reconsideration was filed, which was likewise denied in an Order¹⁰ dated June 22, 2017 (assailed Orders).

Hence, this petition.

Petitioners assail the seemingly conflicting rulings of the RTC in its Decision dated October 20, 2003 and assailed RTC Orders. In the former, the RTC explicitly states that the property to be vacated is at Lizardo Street, 20th Avenue, Barangay Dioquino Zobel, Cubao, Quezon City (Lizardo Street property) while in the latter, the RTC specifically excluded Lot 5-E, which is part of the Lizardo Street property, from the implementation of the Writ of Execution and the Writ of Demolition. Hence, petitioners suggest that the subsequent Orders the RTC alters its earlier Decision.

Preliminarily, we note that the petition for *certiorari* was filed directly to this Court, violative of the principle of hierarchy of courts. While the RTC, CA and this Court have concurrence of jurisdiction to issue this writ, resort to this Court is proper only when the redress desired cannot be obtained in the appropriate courts, and exceptional and compelling circumstances.¹¹ Here, petitioners failed to show any compelling reason to justify its action.

Nevertheless, we dismiss the petition for *certiorari* on substantial grounds.

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⁷ Id. at 777-778.

⁸ Supra note 2.

⁹ Supra note 3.

¹⁰ Supra note 4.

¹¹ *Springfield Development Corporation v. RTC of Misamis Oriental, Branch 40*, 543 Phil. 298-31.

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Grave abuse of discretion is the arbitrary or despotic exercise of power due to passion, prejudice or personal hostility; or the whimsical, arbitrary, or a capricious exercise of power that amounts to an evasion or a refusal to perform a positive duty enjoined by law or to act at all in contemplation of law.¹²

In this case, petitioners failed to prove that the RTC committed grave abuse of discretion in issuing the assailed Orders.

The dispositive portion or the *fallo* is its decisive resolution and is thus the subject of execution. The other parts of the decision may be resorted to in order to determine the *ratio decidendi* for the disposition. Where there is a conflict between the dispositive part and the opinion of the court contained in the text or body of the decision, the former must prevail over the latter on the theory that the dispositive portion is the final order, while the opinion is merely a statement ordering nothing.¹³

The only exception when the body of a decision prevails over the *fallo* is when the inevitable conclusion from the former is that there was a glaring error in the latter, in which case the body of the decision will prevail.¹⁴

A reading of the body of the October 20, 2003 Decision reveals that only Lots 5-D, 5-K, and 5-L were discussed as the properties being claimed by the petitioners in their Complaint. To stress, the RTC mentioned:

Plaintiffs Fe Lizardo Purugganan's claim is un rebutted. She and her siblings are the heirs of Spouses Claro and Angustia A. Lizardo, owners of **three parcels of land** covered by Transfer Certificate of Title No. RT-90166 (13001) of the Registry of Deeds of Quezon City (Exhibits "A"- "A-3"). As heirs, they became the owners of the property when their parents died.¹⁵

In its Order dated March 6, 2017, the RTC explicitly indicated:

x x x A close scrutiny will reveal that it only includes Lot 5-D Lot 5-K and Lot 5-L. Also, the prayer in the complaint only refers to these three lots. Thus, this court agrees with the observation of the defendants that the Decision should only include the three lots. When the decision speaks of TCT No. RT-90176, it

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¹² *Ong Lay Hin v. Court of Appeals*, G.R. No. 191972, January 26, 2015.

¹³ *Ph Credit Corporation v. Court of Appeals*, G.R. No. 109648, November 22, 2001.

¹⁴ *Id.*

¹⁵ *Rollo*, pp. 75.

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only pertains to the parcel of lands covered by Lot 5-D, 5-K and Lot 5-L, and not the entirety of the parcel of land covered by TCT No. RT-90176. x x x"¹⁶

For obvious reasons, these three parcels of land stated in the RTC Decision were identified as Lots 5-D, 5-K, and 5-L for there was no mention of Lot 5-E or any other lots. Thus, when the *fallo* of the Decision stated only the general location of the property, it did not mean to include other lots which were not identified in the body. The inclusion of Lot 5-E in the implementation of the writ of execution and the subsequent writ of demolition would derogate the intent of the RTC Decision. Accordingly, the body of the decision prevails.

WHEREFORE, the instant petition is hereby **DISMISSED**. Accordingly, the Orders dated March 6, 2017, April 27, 2017, and June 22, 2017 of the Regional Trial Court of Quezon City, Branch 216 are **AFFIRMED in toto**.

The formal entry of appearance of Atty. Jose Gabrielle G. Petrache as collaborating counsel for the petitioners in G.R. No. 233643 and his request that all notices, orders and processes be furnished at his address at #172 Chico St., Quirino, 2-C, Quezon City, is **NOTED**; Atty. Jose Gabrielle G. Petrache is hereby required to **SUBMIT**, within five (5) days from notice hereof, a soft copy in compact disc, USB or e-mail containing the PDF file of the signed formal entry of appearance pursuant to A.M. Nos. 10-3-7-SC and 11-9-4-SC; the petitioners' alternative motion, with prior leave of court, to set aside the March 19, 2019 minute resolution, the July 8, 2019 minute resolution and entry of judgment, and admit thereto attached supplement to petition in G.R. No. 238130 or to suspend the entry of judgment and admit the attached second motion for reconsideration, is **NOTED WITHOUT ACTION**; the petitioner's supplement to petition in G.R. NO. 238130 or second motion for reconsideration of the Resolution dated March 13, 2019, both with prior leave of court, filed by collaborating counsel for petitioners, is **NOTED WITHOUT ACTION**; and the manifestation of Atty. Jose Gabrille G. Petrache, collaborating counsel for petitioners in G.R. No. 233643, submitting soft copy in compact disc of the alternative motion with prior leave of court to set aside the March 19, 2019-minute resolution, the July 8, 2019-minute resolution and entry of judgment, and admit attached supplement to petition in G.R. No. 238130 or to suspend the entry of judgment and admit the attached second motion for reconsideration, is **NOTED**.

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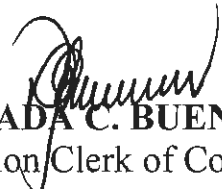
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¹⁶ Id. at 61.

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SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *mla*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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Dioquino Zobel, Inc.
Respondent in G.R. 238130
c/o Mr. Jaime C. Gregorio
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Brgy. Dioquino Zobel, 1109 Quezon City

The Hon. Presiding Judge
Regional Trial Court, Branch 216
1100 Quezon City
(Civil Case No. Q-98-35878)

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